

ALEXIAN BROTHERS MEDICAL
CENTER,

Plaintiff,

v.

UNITED FOOD AND COMMERCIAL
WORKER UNIONS AND EMPLOYERS
MIDWEST HEALTH BENEFITS FUND,

Defendant.

Defendant, which for convenience has shortened its self-reference to "Health Benefits Fund" (a usage that this Court will also employ), has filed its Answer and an Affirmative Defense ("AD") to the ERISA-based Complaint brought against it by Alexian Brothers Medical Center. This sua sponte memorandum order is triggered by some problematic aspects of that responsive pleading.

Next, Answer ¶ 10 declines to respond to the corresponding allegation of Alexian's Complaint on the predicate that it "alleges a conclusion of law." Nonsense – see, e.g., App'x ¶ 2 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001). Answer ¶ 10 is therefore stricken.

Finally, Health Benefits Fund's AD is totally at odds with the principle that an AD must accept the complaint's allegations as true – see App'x ¶ 5 to State Farm. Here the AD flatly contradicts Complaint ¶ 19, so it too is stricken.

Because of the first flaw identified in this memorandum order, the responsive pleading is stricken in its entirety. Health Benefits Fund is of course granted leave to file an Amended Answer (but without an AD) on or before July 9, 2012.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Milton I. Shadur
Senior United States District Judge

Date: June 22, 2012.